

**REMARKS**

Claims 34-52 are currently pending in this application. By the foregoing amendment, claims 1-33 have been cancelled and new claims 34-52 have been amended.

In response to a prior restriction requirement, Applicants elected to pursue claims directed to a shoe insert. Accordingly, each of claims 34-52 is specifically directed to shoe inserts.

New independent claim 34 is directed to a shoe insert and is supported by originally filed claims 1 and 32 which describe a multilayer material. The first and second elastomer silicone layers are supported by original claim 33 which recites that the elastomer layer is a silicone gel and by the originally filed specification, page 4, lines 17-19 which recite that the layers are can be formed by silicone. Silicone gel is a thermoset elastomer material. That the elastomer layers are free of voids is supported by originally filed Figure 12, which illustrates that the elastomer layers are generally free of voids. The reinforcement layer being coextensive with the elastomer layers is supported by originally filed Figure 12 which shows that the reinforcement layers extends the entire area of the elastomer layers.

New claims 35, 44, and 47 are each supported by page 10, lines 14-17, of the originally filed specification. New claims 36 and 48 are each supported by originally filed Figures 3 and 4 and by page 5, lines 7-10, of the originally filed specification. New claims 37, 45, and 49 are supported by originally filed claims 1 and 33 and by

page 8, lines 5-7, of the originally filed specification. New claims 38-40, 42, 43, and 50-52 are supported by originally filed Figures 5 and 6 and by page 5, lines 12-21, of the originally filed specification.

New independent claim 41 is supported by each of the reasons recited above in connection with claims 34 and 38 and by page 9, line 26, of the originally filed specification.

New independent claim 46 is supported by each of the reasons recited above in connection with claim 34 and page 9, lines 24-26, of the originally filed specification. The recitation of high tensile fibrous material is supported by page 9, lines 24-26, of the originally filed specification which recites that the force dissipating layer is preferably an aramid. Aramid is a high tensile fibrous material. Accordingly, one of ordinary skill in the art would appreciate from Applicants' disclosure that high tensile fibrous material was disclosed.

No new matter is added to the application by this amendment.

### **CLAIM REJECTIONS**

Claims 1-6, 22-25, and 32 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,463,824 ("Barna."). Claims 7 and 33 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Barna. Applicants submit that these rejections are moot due to cancellation of claims 1-33.

One embodiment of Applicants' invention is directed to a thermoset elastomer material including first and second elastomer layers. The first and second elastomer layers are preferably thermoset silicone elastomer layers that are each substantially free of voids. A reinforcement layer consisting of a single layer of aramid, fiberglass, or high tensile fibrous material is disposed between the first and second elastomer layers. The reinforcement layer is generally coextensive with the first and second thermoset layers.

Barna is directed to an arch support system that positions a small stretch resisting member 16 under part of the arch of the foot. There is no disclosure, teaching, or suggestion of providing a reinforcement layer that is coextensive with covering and underlying elastomer layers as recited in Applicants' claims. Additionally, Barna uses an upper surface portion 12 that is formed by a polyurethane foam. Polyurethane foam has voids therein. Furthermore, Barna specifically states that:

[T]he top cover, or upper surface portion, 12, is composed of a substantially consistent thickness sheet of polyurethane foam. This may be approximately 1/16 inch thick and may be of a material known in the industry as Poron, which has been widely accepted and proven in the shoe-insole industry. The open-cell structure of this material allows it to breathe and dissipate moisture and may be treated with anti-bacterial and anti-odor agents. Specification, Column 2, lines 60-67.

Accordingly, there is no disclosure, teaching, or suggestion of using first and second elastomer layers that are substantially free of voids. In fact, Barna teaches away

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**Application No.: 09/978,130**

from the use of elastomer layers without voids. Applicants respectfully submit that new claims 34-52 are patentable over the prior art of record.

Applicants respectfully request that the examiner reconsider and withdraw the outstanding Section 102 and 103 rejections.

### **INVITATION**

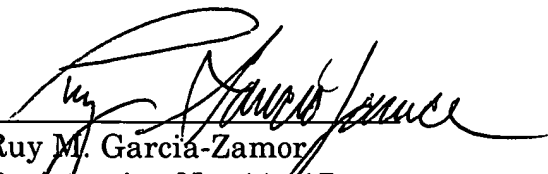
If any additional matters need to be addressed to place this application in condition for allowance, the Examiner is respectfully invited to contact the undersigned, by telephone, at the Examiner's convenience.

### **CONCLUSION**

In view of the foregoing Amendment and Remarks, Applicants respectfully submit that the present application, including claims 34-52, is in condition for allowance and a notice to that effect is respectfully solicited.

Respectfully submitted,

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